



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, DC

Issued by the Department of Transportation on April 5, 2006

**NOTICE OF ACTION TAKEN – DOCKETS: OST-2005-23473 and OST-2005-23471**

---

This document serves as notice to the public of the action described below, by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **American Airlines, Inc. (American)** filed **12/27/05** in **Docket OST-2005-23473** for:

**XX** Blanket exemption authority pursuant to 49 U.S.C. 40109 to permit American to provide the following services:

Scheduled foreign air transportation of persons, property, and mail between: 1) points in the People's Republic of China; and 2) points in the People's Republic of China and any behind, intermediate, and beyond points in third countries. American states that it will conduct these services through a code-share arrangement with China Eastern Airlines, only on flights operated by China Eastern Airlines.<sup>1</sup>

And application of **China Eastern Airlines Corporation Limited (China Eastern)** filed **12/27/05** in **Docket OST-2005-23471** for:

**XX** Statement of Authorization under 14 CFR Part 212 to permit China Eastern to:

Display the American designator code (AA) on flights operated by China Eastern: 1) between its gateway points of Shanghai and Beijing and a point or points within the People's Republic of China; and 2) to any behind, intermediate, and beyond points in third countries. China Eastern requests that the statement of authorization be granted for an indefinite period.

Applicant Rep: **Carl B. Nelson (202) 496-5647 for American**

Applicant Rep: **Evelyn D. Sahr (202) 289-0500 for China Eastern**

DOT Analyst: **Robert J. Finamore (202) 366-2375**

**DISPOSITION**

**XX** Granted (subject to the conditions described below).

The above action with respect to the exemption authority granted for American was effective when taken: **April 5, 2006**, through **April 5, 2008**.

The above action with respect to the Statement of Authorization granted for China Eastern was effective when taken: **April 5, 2006**, and will remain in effect indefinitely, subject to the conditions below.

**Action taken by: Paul L. Gretch, Director  
Office of International Aviation**

---

<sup>1</sup> American initially proposes to code share to cities in China by placing its designator code on China Eastern's flights connecting to American's Chicago-Shanghai service and China Eastern's Los Angeles/San Francisco-Beijing/Shanghai services. (China Eastern is already authorized to display American's code on China Eastern's Los Angeles/San Francisco-Beijing/Shanghai flights. See Notice of Action Taken, Docket OST-1998-3622, and undocketed, May 8, 1998.) Specifically, the initial city pairs involved are Shanghai, on the one hand, and Beijing, Changsha, Chengdu, Chongqing, Dalian, Fuzhou, Guangzhou, Guilin, Harbin, Kunming, Nanchang, Ningbo, Qingdao, Shenzhen, Shenyang, Wenzhou, Wuhan, Xiamen, and Xian, on the other hand.

**XX The authority granted is consistent with the aviation agreement between the United States and the People's Republic of China.**

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

**XX American's certificates of public convenience and necessity**

**XX Standard exemption conditions (attached as Appendix A)**

**XX Code-Share conditions (attached as Appendix B)**

**Conditions:** The exemption authority granted to American is limited to operations conducted only through a code-share arrangement with China Eastern, only on flights operated by China Eastern.

---

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the application was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

An electronic version of this document is available on the World Wide Web at:

*[http://dms.dot.gov/reports\\_aviation.asp](http://dms.dot.gov/reports_aviation.asp)*

**U.S. CARRIER STANDARD EXEMPTION CONDITIONS**

In the conduct of the operations authorized, the U.S. carrier applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with all applicable requirements of the Federal Aviation Administration and with all applicable U.S. Government requirements concerning security, including, but not limited to, 49 CFR Part 1544. To assure compliance with all applicable U.S. Government requirements concerning security, the holder shall, before commencing any new service (including charter flights) to or from a foreign airport, contact its International Principal Security Inspector (IPSI) to advise the IPSI of its plans and to find out whether the Transportation Security Administration has determined that security is adequate to allow such airport(s) to be served; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.

05/2004

**CODE-SHARE CONDITONS**

- (a) The statement of authorization will remain in effect as long as: (i) American and China Eastern continue to hold the necessary underlying authority to operate the code-share services at issue; and, (ii) the code-share agreement providing for the code-share operations remain in effect.
- (b) American and China Eastern must promptly notify the Department (Office of International Aviation) if the code-share agreement providing for the code-share operations is no longer effective or if the carriers decide to cease operating all or a portion of the approved code-share services. Such notices should be filed in Docket OST-2005-23473 and OST-2005-23741.<sup>1</sup>
- (c) American and/or China Eastern must notify the Department no later than 30 days before they begin any new code-share service under the code-share services authorized here. Such notice shall identify the market(s) to be served, which carrier will be operating the aircraft in the code-share market added, and the date on which the service will begin. Such notices should be filed in Docket OST-2005-23473 and OST-2005-23471.
- (d) The code-sharing operations conducted under this authority must comply with 14 CFR 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in the computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.
- (e) The authority to operate to third countries is subject to the condition that any service provided under the statement of authorization shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, (i) nothing in the award of this blanket statement of authorization should be construed as conferring upon American and China Eastern rights (including code-share, fifth freedom intermediate and/or beyond rights) to serve markets where U.S. carrier rights are limited unless American and China Eastern notify us of their intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights;<sup>2</sup> and (ii) should there be a request by any carrier to use the limited-entry route rights that are included in American and China Eastern's authority by virtue of the blanket statement of authorization granted here, but that are not being used by American and China Eastern, the holding of such authority will not be considered as providing any preference for American and China Eastern in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue; and
- (f) The authority granted here is specifically conditioned so that neither American nor China Eastern shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.
- (g) We may amend, modify, or revoke the authority granted at any time without hearing at our discretion.

---

<sup>1</sup> We expect this notification to be received within 10 days of such non-effectiveness or of such decision.

<sup>2</sup> The notice referenced in condition (c) above may be used for this notification.